

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-21-01)
(June 9, 2021)

A report to the Flathead County Planning Board and Board of Commissioners regarding an amendment to the Flathead County Zoning Regulations (FCZR). The request proposes a complete rewrite of Section 3.40 NF North Fork.

The Flathead County Planning Board will conduct a public hearing on the proposed text amendment on June 9, 2021 in the South Campus Building 2nd Floor Conference Room, 40 11th Street West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed amendment(s) at a date and time yet to be determined. Documents pertaining to the text amendment(s) are available for public inspection in the Flathead County Planning and Zoning Office, South Campus Building, 40 11th Street West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the text amendment(s) will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

I. APPLICATION REVIEW UPDATES

A. North Fork Land Use Advisory Committee

The North Fork Land Use Advisory Committee will consider this text amendment at their regularly scheduled meeting on April 15, 2021. This space is reserved for a summary of the Land Use Advisory Committee's discussion and recommendation.

UPDATE: The North Fork Land Use Advisory Committee (NFLUAC) began working on a text amendment of Section 3.40 NF North Fork in early 2021. An ad-hoc committee of the NFLUAC was formed. This committee had several meetings with Planning Staff, conducted extensive outreach in the North Fork community, and presented the draft at the April 15, 2021 meeting of the NFLUAC. At that meeting, the ad-hoc committee members presented the proposed changes. Staff attended the meeting to address any questions regarding the proposal. The NFLUAC forwarded a positive recommendation to the Planning Board by a unanimous vote.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed amendment on June 9, 2021 and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

C. Commission

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

C. Planning Board

D. Commission

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

North Fork Land Use Advisory Committee

B. Proposed for Amendment

The proposal is a request to amend Section 3.40 NF North Fork of the Flathead County Zoning Regulations. The text of this request is attached as Exhibit A. The proposed changes included, but are not necessarily limited to the following:

- Separate Hostel from Bed and Breakfast and provide a definition and require conditional use approval for Hostel.
- Guest Cabin changed to Guest Accommodation.
- Change Post Office to U.S. Post Office.
- Recreational Vehicle or Camping (private) has been removed as a separate permitted use and is incorporated in the Guest Accommodation use.
- Residential Business is changed to Home-based Business or Occupation.
- Rental Cabin is changed to Rental Accommodation and is limited in number and permitted density depending on the type of accommodation.
- Coin Operated Laundry has been removed.
- Convenience Store and Gift/Souvenir Shop have been combined and specific performance standards have been added.
- Extractive Industries has been removed.
- Outdoor Recreation Facility has been removed.
- Public Shower has been modified as a conditional use and is required to be accessory to a commercial use.
- Rental Accommodation when densities exceed the permitted use standard will require conditional use approval.
- Restaurant/Tavern has been combined into a single use.
- Work Camp has been added as a conditional use.

C. Criteria Used for Evaluation of Proposed Amendment:

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

D. Compliance With Public Notice Requirements:

In conformance with Section 2.08 of the Flathead County Zoning Regulations regarding amendments to the text of that document, legal notice of the Planning Board public hearing on this application was published in the May 19, 2021 edition of *The Daily Interlake*. Public notice of the Board of County Commissioners' public hearing regarding the zoning text amendment will be published in the legal section of *The Daily Interlake* once a week for two weeks prior to the public hearing and be physically posted within the County according to statutory requirements found in Section 76-2-205 M.C.A. All methods of public notice will include information on the general character of the proposed amendment to the text of the *Flathead County Zoning Regulations*, the time and place of the public hearing and that the text

of the amendment is available for public inspection at the Flathead County Planning and Zoning Office and the Commissioners' Office.

III. COMMENTS RECEIVED

A. Public Comments

The Planning Department received 28 written comments on this request. 27 of those comments were in favor of this request. The lone comment not particularly in favor discussed concerns with some of the performance standards dealing with the methods for reducing human and wildlife interaction in the area, more specifically the requirement for electric fencing.

B. Agency Comments

The nature of the proposed amendments did not appear to warrant requesting additional agency comments.

IV. EVALUATION OF PROPOSED AMENDMENT

A. General character of and Reason for Amendment

As mentioned above, this is a request to amend Section 3.40 NF North Fork of the Flathead County Zoning Regulations. The proposed changes are extensive in nature and the request should be considered a complete rewrite of Section 3.40.

The North Fork Neighborhood Plan was initially adopted in 1987 and later amended in 2008. North Fork zoning regulations were initially adopted in 1998 and minor changes were adopted in 2003. The North Fork Land Use Advisory Committee (NFLUAC) appointed an ad-hoc committee to undertake the revisions of the North Fork zoning regulations. This ad-hoc committee met several times and ultimately produced the text amendments that are currently being proposed.

The general character of the request could be characterized as describing in more detail the nature of the North Fork area. The proposed language includes a detailed purpose and implementation section as well as detailed performance standards that are not currently a part of the existing section. In addition, the request further clarifies specific uses, eliminates some existing uses and includes definitions of terms used in this section.

One of the primary reasons for this amendment is a result of two conditional use permit applications within the North Fork planning area that were submitted in 2020. It had been quite some time since the North Fork Land Use Advisory Committee had the opportunity to consider a specific development request and it appeared that there were some issues of interpretation that seemed contrary to the intent of both the North Fork Neighborhood Plan and the zoning regulations.

B. Proposed Amendment

The proposed amendments can be found in attached Exhibit A.

C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

- i. Whether the proposed text amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed text amendment is subject to complying with the goals and policies of the North Fork Neighborhood Plan. The following are the goals and policies that pertain to this request:

- ❖ ***Goal 1: To preserve low densities and open spaces in the North Fork***
 - ***Policy 1.1: New subdivisions should not create lot sizes under 20 acres***
 - ***Policy 1.2: Residential construction should be limited to single-family dwellings (including accessory structures as defined by the Flathead County Zoning Regulations).***
 - The request does not proposed to alter the minimum lot size of newly created lots, and it continues to permit single-family dwellings and accessory buildings on newly created 20 acres lots as well as existing tracts of record.
 - ***Policy 1.3: Rental cabin density should be limited to one cabin per five acres***
 - The request proposes to change “rental cabin” to “rental accommodation.” In addition, the density of one “rental accommodation” per five acres or per tract of record if the property is less than five acres is proposed to be altered to limited “rental accommodations to one per five acres of contiguous property ownership. This proposed change has the potential of reducing slightly the density of this kind of use.
- ❖ ***Goal 2: To maintain the remote undeveloped qualities unique to the North Fork***
 - ***Policy 2.1: Discourage commercial ventures that have intrusive, non-compatible designs or produce persistent auditory or olfactory impacts that can be easily detected from neighboring properties.***
 - ***Policy 2.2: Approved commercial construction visible from the main road should blend with the surrounding area.***
 - ***Policy 2.3: Destination resorts that are not scaled to meet the character of the neighborhood, and the available infrastructure and utilities, should not be allowed.***
 - ***Policy 2.4: Business or commercial development should be scaled to meet the needs of the immediate neighborhood and visitors to the area.***
 - The request proposes to add performance standards that address the remote, undeveloped qualities of the North Fork area as well as to require compatible commercial development.
- ❖ ***Goal 3: To maintain and enhance the pristine water and air quality found in the North Fork.***
 - ***Policy 3.1: New buildings should be set back from rivers, lakes, and strams by 150 feet from the high water line.***
 - The proposed text amendment maintains 150 feet setbacks from all water courses as well as the North Fork Road.
- ❖ ***Goal 4: Preserve and enhance the scenic values of the North Fork.***
 - The request proposes to maintain all existing setback requirements from water courses and roadways. Moreover, the request proposes to add performance standards that should ensure future development to be compatible with the scenic values of the North Fork.

The following are the goals and policies of the Flathead County Growth Policy that pertain to the proposed text amendment:

The Flathead County Growth Policy outlines seven elements of the public's vision of the County and appears to be an acceptable starting point in evaluating proposed regulation changes. The seven elements are:

- **Protect the views**—The proposed text amendments should not interfere with the current scenic views in the North Fork because the proposed performance standards are designed to maintain and enhance the scenic values of the North Fork.
- **Promote a Diverse Economy**—The requested text amendment attempts to clarify the ability of property owners to provide guest accommodations for summer visitors to the North Fork in order to offer a unique Northwest Montana experience. Moreover, the request preserves the opportunity for home-based occupations and other compatible commercial uses.
- **Manage Transportation**—The proposed text amendment requests to add performance standards that should address future transportation issues associated with increased development.
- **Maintain the Identity of Rural Communities**—To many visitors and residents alike, the North Fork is the quintessential vision of Northwest Montana. The proposed amendment intends to maintain the unique identity of the North Fork area.
- **Protect Access to and Interaction with Parks and Recreation**—It is not anticipated that approval of this request will have any effect on access or interaction with parks and recreation.
- **Properly Manage and Protect the Natural and Human Environment**—The proposed performance standards associated with the text amendment are designed to protect both the natural and human environment.
- **Preserve the Rights of Private Property Owners**—The text amendment is proposed to clarify certain uses within the North Fork area and to add specific performance standards for all new development which should mitigate the impact of any future development. This should preserve the rights of current and future property owners within the area.

The following is an evaluation of the how the proposed text amendment is consistent with the specific goals and policies contained within the Growth Policy:

- ❖ **G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.**
 - The text amendment proposes to clarify various uses in the North Fork. This clarification should continue to preserve the rights of current and future property owners. At the same time, the proposed performance standards are designed to mitigate any potential adverse impacts new development may have on adjacent property owners.
- **P.2.1 – Create land use regulations that are directly linked to the vision outlined in the Growth Policy.**
 - As stated above, it appears the proposed text amendment is consistent with the seven elements of the public's vision of Flathead County.
- **P.2.2 – Regulatory and fiscal implementation of the Growth Policy should protect the public health, safety, morals, convenience, order, or general welfare in the process of community development.**

- The proposed text amendment with the additional performance standards is designed specifically to protect the health, safety and welfare of the citizens and visitors of Flathead County.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
 - The proposed text amendment will continue to provide a mechanism to enhance and protect the identity of the North Fork area. The proposed performance standards should ensure the protection of the health, safety and welfare of land owners as well as the visitors to the area.
- **P.8.1** – *Create reasonable, flexible and predictable development guidelines based on accurate, fair, and reasonable criteria.*
 - The proposed text amendment appears to clarify certain uses in the area, resulting in more predictable development guidelines.
- ❖ **G.11** – *Protection of scenic resources available to both residents and visitors.*
 - The performance standards associated with this text amendment should protect the scenic resources available to both residents and visitors.

Finding #1: The proposed text amendment appears to be supported by the goals and policies of the North Fork Neighborhood Plan because it continues to preserve low densities and open spaces in the North Fork and it maintains the remote, undeveloped qualities of the area. Further, the proposed performance standards should ensure that future development will have a positive impact on the area.

Finding #2: The proposed text amendment appears to be supported by numerous goals and policies of the Flathead County Growth Policy because it preserves the rights of the property owners in the North Fork; it clarifies development requirements with the addition of added definitions and performances standards. Moreover, the request continues to preserve the scenic qualities of the area by maintaining large minimum lot sizes for newly created lots and large setbacks from roads and water courses.

ii. Whether the proposed text amendment is designed to:

1. Secure safety from fire and other dangers;

The elements contained in the zoning regulations that secure safety from fire and other dangers, more specifically bulk and dimensional standards, are not proposed to be changed. The proposed performance standards are intended to address and help mitigate wildfire dangers that are inherent to the area.

Finding #3: The proposed text amendment is designed to help secure safety from fire and other dangers because the bulk and dimensional requirements remain unchanged and the proposed development standards should help mitigate wildfire dangers.

2. Promote public health, public safety, and general welfare;

By their very nature, zoning regulations are designed to promote public health, safety, and general welfare. The proposed amendment better clarifies various uses in the North Fork that have, in the past, created some confusion. In addition, the proposed performance standards not only attempt to maintain the character of the North Fork, they also should further protect public health, safety, and welfare.

Finding #4: The proposed text amendments will promote public health, public safety, and general welfare because the proposed language clarifies certain uses that have, in the past, been confusing and proposes to add performance standards that will promote public health, safety and welfare.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

There are limited transportation options available in the North Fork area with only a few County maintained roads. Additionally, developing individual water and sewage treatment infrastructure can be a challenge as well. The clarification of certain uses and the performance standards appear to facilitate adequate provision of transportation, water and sewage disposal. Further, the nature of the development in the area and the limited year round population of the North Fork result in little to no impact on area schools. Finally, the North Fork is surrounded by public lands so that providing adequate provisions for parks does not appear to be applicable. With that said, the proposed performance standards appear to facilitate the adequate provision of transportation and Environmental Health and DEQ standards will ensure the adequate provision of water, storm water, and sewer.

Finding #5: The proposed text amendments will better facilitate the adequate provision of transportation, water, and sewerage, because the clarification of uses and the performance standards should address traffic issues and the Environmental Health Department and DEQ will ensure water, storm water, and sewer systems meet all local and state requirements. Further, the proposed text amendment should have no effect on schools, parks or other public requirements.

iii. In evaluating the proposed text amendment(s), consideration shall be given to:

1. The reasonable provision of adequate light and air;

The reasonable provision of adequate light and air typically is achieved through bulk and dimensional requirements. The proposed text amendment does not alter the existing bulk and dimensional requirements

Finding #6: The proposed text amendment will reasonably provide for adequate light and air because the proposed amendments will not alter the existing bulk and dimensional requirements.

2. The effect on motorized and non-motorized transportation systems;

As previously stated, the transportation system in the North Fork is limited with few County maintained roadways. The request does not propose to add any uses that would significantly increase traffic in the North Fork area. On its own, the request should have minimal impact on both motorized and non-motorized transportation. It should be noted that the conditional use review requires review of the transportation system in the area so effects on the transportation system will be evaluated if, and when, conditional use permit application are submitted and reviewed.

Finding #7: The proposed text amendment should have no adverse impact on motorized and non-motorized transportation systems because the proposed amendment, on its own, does not propose to add uses that would significantly increase the traffic volume in the North Fork.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The North Fork is approximately 22 miles north of the Columbia Falls corporate limits. The area is sparsely developed and the issue of compatible urban growth in the vicinity does not appear to be applicable.

Finding #8: The proposed North Fork text amendments is applicable to an area of the County that is approximately 22 mile from the nearest municipality. The issue of compatibility to urban growth in the vicinity does not appear to be applicable.

4. The character of the district(s) and its peculiar suitability for particular uses;

The character of the North Fork can be described is remote. The abundance of public lands, the limited amount of development in the area, and the pristine nature of the natural environment appears to make the proposed text amendments suitable for the area. As proposed, the request continues to encourage limited development that is catered to seasonal use of individual properties. The proposed changes in definitions and the clarification of certain uses appears to promote and encourage land uses that will serve the more adventurous summer visitors while protecting the value of the limited amount of long term residents.

Finding #9: The character of the proposed text amendment appears to be particularly suitable for the North Fork area because the clarification of certain uses, the proposed definition changes and the proposed performance standards appear to maintain and enhance the remote character of the North Fork.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed clarification of uses, the changes to the definition section, and the proposed performance standards are designed to conserve the value of the existing development as well as any future development in the North Fork.

Finding #10: The proposed text amendments appear to conserve the value of existing buildings and encourages the most appropriate use of the land because the proposed text amendment will continue to promote low density development that will take advantage of the scenic values abundant in the North Fork.

iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

As stated, the North Fork is not in close proximity to any of the County's municipalities. Compatibility with the zoning regulations of nearby municipalities is not applicable.

Finding #11: Compatibility of the proposed text amendment with the zoning regulations of nearby municipalities is not applicable because the closest municipality to the area is approximately 22 miles.

V. SUMMARY OF FINDINGS

Finding #1: The proposed text amendment appears to be supported by the goals and policies of the North Fork Neighborhood Plan because it continues to preserve low densities and open spaces in the North Fork and it maintains the remote, undeveloped

qualities of the area. Further, the proposed performance standards should ensure that future development will have a positive impact on the area.

Finding #2: The proposed text amendment appears to be supported by numerous goals and policies of the Flathead County Growth Policy because it preserves the rights of the property owners in the North Fork; it clarifies development requirements with the addition of added definitions and performances standards. Moreover, the request continues to preserve the scenic qualities of the area by maintaining large minimum lot sizes for newly created lots and large setbacks from roads and water courses.

Finding #3: The proposed text amendment is designed to help secure safety from fire and other dangers because the bulk and dimensional requirements remain unchanged and the proposed development standards should help mitigate wildfire dangers.

Finding #4: The proposed text amendments will promote public health, public safety, and general welfare because the proposed language clarifies certain uses that have, in the past, been confusing and proposes to add performance standards that will promote public health, safety and welfare.

Finding #5: The proposed text amendments will better facilitate the adequate provision of transportation, water, and sewerage, because the clarification of uses and the performance standards should address traffic issues and the Environmental Health Department and DEQ will ensure water, storm water, and sewer systems meet all local and state requirements. Further, the proposed text amendment should have no effect on schools, parks or other public requirements.

Finding #6: The proposed text amendment will reasonably provide for adequate light and air because the proposed amendments will not alter the existing bulk and dimensional requirements.

Finding #7: The proposed text amendment should have no adverse impact on motorized and non-motorized transportation systems because the proposed amendment, on its own, does not propose to add uses that would significantly increase the traffic volume in the North Fork.

Finding #8: The proposed North Fork text amendments is applicable to an area of the County that is approximately 22 mile from the nearest municipality. The issue of compatibility to urban growth in the vicinity does not appear to be applicable.

Finding #9: The character of the proposed text amendment appears to be particularly suitable for the North Fork area because the clarification of certain uses, the proposed definition changes and the proposed performance standards appear to maintain and enhance the remote character of the North Fork.

Finding #10: The proposed text amendments appear to conserve the value of existing buildings and encourages the most appropriate use of the land because the proposed text amendment will continue to promote low density development that will take advantage of the scenic values abundant in the North Fork.

Finding #11: Compatibility of the proposed text amendment with the zoning regulations of nearby municipalities is not applicable because the closest municipality to the area is approximately 22 miles.

VI. RECOMMENDATION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board, comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040, has found the proposal to generally comply with the review criteria based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

MM